

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

JIMMIE LEWIS, )  
                    )  
                    )  
Plaintiff,       )  
                    )  
                    )  
v.                 ) Civil Action No. 04-1350-GMS  
                    )  
                    )  
DR. SYLVIA FOSTER, NURSE   )  
ASSISTANT ROBERT N. GRAY,   )  
MR. JOHNSON 1, MR. JOHNSON )  
2, LANCE SAGERS, and DAVE   )  
MOFFETT,              )  
                    )  
Defendants.       )

**CERTIFICATION**

I, Nancy Rebeschini, Esquire, pro se law clerk, and designated officer for depositions upon written questions held before me on January 8, 2008, do here by certify that:

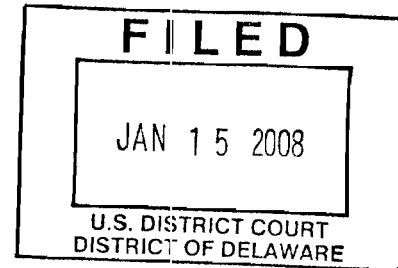
1. The deposition of the defendant, David Moffett, was held on January 8, 2008, at 9:00 a.m., at the J. Caleb Boggs Federal Building, Wilmington, Delaware. Joseph Schoell, counsel for Robert N. Gray, David Moffett, and Lance Sagers, and Michael Ripple, counsel for Dr. Sylvia Foster were present at the deposition.
2. On that same date, David Moffett declared before me, an individual authorized to administer oaths, that his written answers were true and correct.
3. I read aloud each and every deposition question submitted by the plaintiff, Jimmie Lewis, for the deponent, David Moffett.
4. I personally observed the deponent, David Moffett, answer, in writing, the deposition questions.
5. A true and correct copy of the written questions filed by the plaintiff, the original

written answers of the deponent, and written original objections made by counsel are attached hereto and are filed with the court, and copies shall be served upon the parties.

I, Nancy Rebeschini, certify under penalty of perjury that the foregoing is true and correct.

Executed this 14<sup>th</sup> day of January, 2008.

  
\_\_\_\_\_  
Nancy Rebeschini, Esquire, Designated  
Officer



(198)

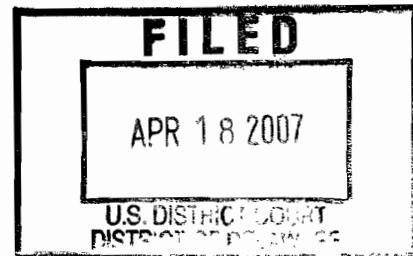
IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

TIMMIE LEWIS

v.

CA. NO. 04-1350 (GMS)

DR. SYLVIA FOSTER, ET AL.



WRITTEN DEPOSITION QUESTIONS  
FOR DEFENDANT DAVID MOFFETT # 3 CC,  
IN ACCORDANCE WITH THE HONORABLE JUDGE  
GREGORY M. SLEET'S APRIL 9TH 07 ORDER  
PURSUANT TO FED R. CIV P# 30

DATE: 4/16/07

Timmie Lewis  
SBI # 506622  
DEL. CORR. CENTER  
1181 PADDOCK RD  
SMYRNA, DEL 19977

3cc, p.1)

- 1.) WHO PROVIDES YOUR PHYSICAL SAFETY RESTRAINT TRAINING
- 2.) WHAT ARE YOU TAUGHT NOT TO DO WHEN PHYSICALLY RESTRAINING A PERSON
- 3.) DATING FROM 5/21/04 TO 6/25/04  
THE COURSE OF THE PLAINTIFF'S STAY AT  
THE DELAWARE PSYCHIATRIC CENTER,  
WOULD YOU SAY THAT THE PLAINTIFF  
DISPLAYED NO EVIDENCE OF MOOD DISORDER
- 4.) DATING FROM 5/21/04 TO 6/25/04  
THE COURSE OF THE PLAINTIFF'S STAY AT  
THE DELAWARE PSYCHIATRIC CENTER;  
WOULD YOU SAY THAT THE PLAINTIFF  
DISPLAYED NO EVIDENCE OF PSYCHOSIS
- 5.) IF DR. SYLVIA POSTER GAVE AN ORDER  
THAT CALLED FOR YOU TO 4 POINT RESTRAIN  
THE PLAINTIFF, AND YOU DID NOT COMPLY,  
COULD YOU POSSIBLY BE FIRED FOR NOT COMPLIING.

3cc, p.2)

- 6.) DO YOU KNOW THE NAME OF ANY DELAWARE PSYCHIATRIC CENTER'S STAFF WHO YOU WITNESSED UTILIZE PHYSICAL FORCE TO SUBDUCE AND OR RESTRAIN THE PLAINTIFF AT THE D.P.C DATING FROM 5/21/04 TO 6/25/04 , IF YES , PROVIDE THE PLAINTIFF WITH THE FULL AND CORRECT NAME OF SAID D.P.C STAFF MEMBER OR MEMBERS.
- 7.) DURING THE PLAINTIFF'S STAY AT THE DELAWARE PSYCHIATRIC CENTER DATING FROM 5/21/04 TO 6/25/04 , DO YOU BELIEVE DR. SYLVIA FOSTER HAD THE AUTHORITY TO ORDER THE PLAINTIFF JIMMIE LEWIS 4 POINT RESTRIAINED.
- 8.) DURING THE PLAINTIFF'S STAY AT THE DELAWARE PSYCHIATRIC CENTER DATING FROM 5/21/04 TO 6/25/04 , DO YOU BELIEVE DR. SYLVIA FOSTER HAD THE AUTHORITY TO ORDER THE PLAINTIFF JIMMIE LEWIS TO BE INJECTED WITH PSYCHOTROPIC MEDICINE(S).

3cc, p.3)

- 9.) DURING THE PLAINTIFF'S STAY AT THE DELAWARE PSYCHIATRIC CENTER DATING FROM 5/21/04 TO 6/25/04, DID YOU BECOME AWARE OF THE PLAINTIFF BEING 4 POINT RESTRIANED
- 10) DURING THE PLAINTIFF'S STAY AT THE DELAWARE PSYCHIATRIC CENTER DATING FROM 5/21/04 TO 6/25/04, DID YOU BECOME AWARE OF THE PLAINTIFF RECEIVING INJECTIONS OF PSYCHOTROPIC MEDICINES.
- 11) REGARDING THE INCIDENT THE PLAINTIFF ~~ALLEGEDLY~~ CLAIMS OCCURED AT THE DELAWARE PSYCHIATRIC CENTERS MITTEL BUILDING DINNING HALL DURING SNACK BREAK ON JUNE 14, 04, QUESTION, IN YOUR PROFFESIONAL OPINION SHOULD THE PLAINTIFF BEEN PLACED INTO ~~MENAD~~ ISOLATION FOR SAFETY.
- 12.) IN YOUR OPINION, WHY DO YOU THINK A PSYCHIATRIST WOULD ORDER ~~THE~~ A PERSON TO BE INJECTED WITH PSYCHOTROPIC MEDICINES.

3cc , p.4)

13.) UP UNTIL TO DATE, WHY HAVENT YOU SUBMITTED CLAIM THAT THE PLAINTIFF JIMMIE LEWIS ALLEGEDLY THREATENED YOU, WAS VERBALLY AGGRESSIVE AND OR PHYSICALLY ASSAULTED YOU OR ANY SPECIFICALLY NAMED D. P.C PATIENT OR D. P.C STAFF MEMBER WHO WAS PRESENT DURING THE JUNE 14, 04 INCIDENT IN THE D.P.C's MITCHEL BUILDING.

14.) CAN YOU RECALL IF YOU HAD TO PHYSICALLY SUBDUE AND OR RESTRAIN THE PLAINTIFF JIMMIE LEWIS AT THE D. P.C's MITCHEL BUILDING ON EITHER OF THE FOLLOWING DATES. DURING HIS 5/21/04 TO 6/25/04 STAY AT THE DELAWARE PSYCHIATRIC CENTER : 6/6 - 13 - 14 AT OR ABOUT 8:00 PM, 14TH AT OR ABOUT 11:00 PM, 15TH - 21 - 22 - 24 / 2004 . PLEASE SPECIFICALLY NOTE SAID DATE OR DATES.

3cc, p.5)

15.) YOU STATED ON OR ABOUT APRIL 9TH 07  
THAT THE JUNE 14, 04 INCIDENT AT THE D.P.C.'S  
MITCHEL BUILDING DINNING HALL DURING  
SNACK BREAK REGARDING THE PLAINTIFF  
JIMMIE LEWIS OCCURED AT 8:45 PM.

TAKING INTO CONSIDERATION LANCE SAGERS  
APRIL 9TH 07 STATEMENT, QUOTE.

I WAS AT LUNCH OUT OF THE MITCHEL  
BUILDING FROM 8:00 PM TO 8:40 PM, UNQUOTE.

QUESTION, DOES YOUR CLAIM THAT THE  
AFOREMENTIONED INCIDENT OCCURED AT 8:45 PM,  
PLACE LANCE SAGERS INSIDE OF THE ~~MITCHEL~~  
MITCHEL BUILDING AT THE TIME YOU  
STATED THE INCIDENT OCCURED.

3cc, p.6)

16) AT WHAT TIME AND DATE BETWEEN  
THE DATES OF 5/21/04 AND 6/25/04,  
DID YOU BECOME AWARE THAT  
DR. SYLVIA FOSTER DIAGNOSED THE PLAINTIFF  
AS MALINGERING, I.E., PRETENDING TO  
BE MENTALLY ILL.

CERTIFICATE OF SERVICE

I, THE UNDERSIGNED PLAINTIFF JIMMIE LEWIS  
DUE HEREBY CERTIFY ON THIS 16<sup>TH</sup>, DAY OF APRIL,  
2007, THAT I DID MAIL ONE TRUE AND CORRECT  
COPY OF THE WRITTEN DEPOSITION QUESTIONS  
FOR DEFENDANT DAVID MOFFETT # 3CC,  
BY U. S POSTAL TO THE FOLLOWING:

CLERK OF THE COURT (Gms)  
UNITED STATES DISTRICT COURT  
844 N. KING ST., LOCKBOX 18  
WILMINGTON, DELAWARE 19801

DATE: 4/16/07

Jimmie Lewis  
SBI # 506622  
DEL. CORR. CENTER  
1181 PADDICK RD  
SMYRNA, DEL 19977

David A. Moffett  
Jan. 8, 2008

David A. Moffett

1. Delaware Psychiatric Center
2. Taught not to apply too much pressure at persons joints, and not to restrict air passage at the mouth.
3. Do not recall.
4. Do not recall.
5. No.
6. None.
7. Yes.
8. Un aware of medical orders.
9. Yes.
10. Yes. aware of injections Not aware of the type of medicine.
11. Yes.
12. To deescalate the patients behaviors.
13. No need to.
14. Yes on 6/14/04.
15. Un aware of Mr. Sagers whereabouts during the stated time.
16. Do not recall.

David A. Moffett

Joseph C. Scholl  
1/8/2008 9:35 am

Counsel for Messrs. Gray, Maffett and Segars

Maffett Questions

- #2) Objection to form of question - vague
- #3) Objection to form of question - calls for expert testimony beyond witness's expertise.
- #4) Objection to the form of question - calls for expert testimony beyond witness's training and expertise.
- #5) Object to the form of question - calls for expert testimony beyond witness's training and expertise.
- #6) Object to the form of the question - calls for expert testimony beyond witness's training and expertise.
- #7) Object to form of question - calls for expert testimony beyond witness's expertise.
- #8) Object to the form of question - calls for expert testimony beyond witness's training and expertise.
- #9) Object to form of question - calls for expert testimony beyond witness's expertise.
- #10) Object to the form of question - calls for expert testimony beyond witness's expertise.
- #11) Object to form of question - calls for expert testimony beyond witness's expertise.
- #12) Object to the form of question - calls for expert testimony beyond witness's expertise.
- #13) Object to the form of question - compound, vague and confusing.

Joseph Schmid

Moffett #2

- #16) Objection to the form of question -  
calls for information beyond witness's  
expertise and misstates the record

*rcpt: DR Foster*David Moffett

1/8/08

(1.)

(2.)

(3.)

(4.)

(5.) objection to form (Ripple)

(6.)

(7.) objection to form (Ripple)

- speculation, lack of foundation, calls for legal conclusion

(8.) objection to form (Ripple)

- speculation, Calls for legal conclusion, lack of foundation

(9.)

(10.)

(11.)

(12.)

(13.)

(1.)

(14.)

(15.)

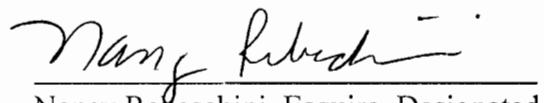
(16.) Objection to form (Ripple)

Cells for speculation, witness has no specialized training  
to issue opinion, lack of personal knowledge

(2)  
(4)

CERTIFICATE OF SERVICE

I hereby certify that on January 14, 2008, I caused to be electronically filed the attached Certification with the Clerk of the Court using CM/ECF, which will send notification of such filing to counsel for defendants. I further certify I caused a true and correct copy of the attached Certification to be served via U.S. mail on the plaintiff, Jimmie Lewis, SBI #506622, Delaware Psychiatric Center, Mitchell Building, 1901 DuPont Highway, New Castle, Delaware 19720, and the defendant Brian Johnson, Delaware Psychiatric Center, 1901 N. DuPont Highway, New Castle, Delaware 19720.

  
\_\_\_\_\_  
Nancy Rebeschini, Esquire, Designated  
Officer